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5. Jury (§ 24*)—Right to Jury Trial—To Have Jury Assess Punishment.—Byrd Law, § 27, allowing the court in its discretion to sentence to imprisonment for not more than 60 days one found guilty of violating its provisions, is not unconstitutional as depriving such accused of right to jury trial; such right not including a right to have punishment assessed by the jury.

[Ed. Note.—For other cases, see *Jury*, Cent. Dig. § 143; Dec. Dig. § 24.* 9 Va.-W. Va. Enc. Dig. 16.]

6. Criminal Law (§ 1213*)—Punishment—Cruel and Unusual.—Nor in such prosecution is a jail sentence of 30 days, in addition to a fine of \$100, cruel and unusual punishment, and therefore unconstitutional.

[Ed. Note.—For other cases, see *Criminal Law*, Cent. Dig. §§ 3304-3309; Dec. Dig. § 1213.* 12 Va.-W. Va. Enc. Dig. 139.]

Error to Circuit Court, Southampton County.

Defendant Bracey was found guilty of selling ardent spirits without a license, and brings error. Affirmed.

J. N. Sebrell, Jr., of Norfolk, for plaintiff in error.
The Attorney General, for the Commonwealth.

ROBBINS *v.* WALKER.

June 8, 1916.

[89 S. E. 128.]

Boundaries (§ 10*)—Descriptions—Plats.—Where, on a plat, south-easterly boundary line of lots on the south side of a street separated them from marsh land lying between the lots and a creek to the south, constituting the southern boundary of the platted tract, the side lines of lots not being prolonged into the marsh, whereas lots on the north side of the street were not so separated from a marsh in their rear, but the side lines of the latter lots were prolonged into that marsh, one whose chain of title to a lot on the south side referred to such plat and described the lot as 150 feet deep, which was the depth indicated by the said southerly boundary line thereof, held, in ejectment, not to have title or any right to the marsh in the rear of the lot.

[Ed. Note.—For other cases, see *Boundaries*, Cent. Dig. §§ 90, 91; Dec. Dig. § 10.* 2 Va.-W. Va. Enc. Dig. 594.]

Appeal from Circuit Court of City of Norfolk.

Action by Alice V. Robbins against Flavius B. Walker. From a judgment for defendant, plaintiff appeals. Affirmed.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

J. Edward Cole, of Norfolk, for plaintiff in error.
Starke, Venable & Starke and *R. E. Miller*, all of Norfolk, for defendant in error.

CLARY et al. v. SPAIN.

June 8, 1916.

[89 S. E. 130.]

1. Infants (§ 58 (1)*)—Contracts—Avoidance.—Ordinarily an infant on coming of age may disavow a contract made during infancy.

[Ed. Note.—For other cases, see Infants, Cent. Dig. §§ 149-156, 158-160; Dec. Dig. § 58 (1).* 7 Va.-W. Va. Enc. Dig. 470.]

2. Infants (§ 27*)—Capacity to Act as Trustee.—As an infant may be a trustee, where he holds property in trust, equity may enforce the trust.

[Ed. Note.—For other cases, see Infants, Cent. Dig. § 35; Dec. Dig. § 27.* 13 Va.-W. Va. Enc. Dig. 328.]

3. Trusts (§ 17, 18 (3)*)—Express Trusts—Creation by Parol.—An express trust for land may be created by parol.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 18; Dec. Dig. § 17, 18 (3).* 10 Va.-W. Va. Enc. Dig. 650.]

4. Trusts (§ 89 (2)*)—Creation—Evidence—Sufficiency.—In an action to enforce a trust, evidence that complainant paid the entire purchase price of land conveyed to her son-in-law and daughter under agreement as to their deeding it to her held to show creation of the trust.

[Ed. Note.—For other cases, see Trusts, Cent. Dig. § 135; Dec. Dig. § 89 (2).* 13 Va.-W. Va. Enc. Dig. 286.]

5. Descent and Distribution (§ 115*)—Trusts (§ 86*)—Resulting Trust—Payment of Consideration—Parent and Child.—Where purchase money is paid by a parent for conveyance to a child, there is a presumption that it was intended as an advancement, and a trust will not result upon payment of the purchase money; but this presumption may be rebutted.

[Ed. Note.—For other cases, see Descent and Distribution, Cent. Dig. § 426; Dec. Dig. § 115; Trusts, Cent. Dig. § 128; Dec. Dig. § 86.* 13 Va.-W. Va. Enc. Dig. 276.]

6. Trusts (§ 374*)—Enforcement by Court—Infant's Deeds.—Where one who had paid the consideration for conveyance to infants of land which they agreed to deed to her sued to secure a deed of the same to her by a commissioner appointed by the court, held such relief was proper, although the infants had conveyed to her as agreed, since, although they would not have been allowed to disaffirm such deed on coming of age, yet, on the face of the trans-

*For other cases see same topic and KEY-NUMBER in all Key Numbered Digests and Indexes.